



220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-808-2013 (O&M)
Date of Decision : 28-07-2025

NAND KISHORE

.....Petitioner

VERSUS

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL- CUM-LABOUR
COURT-II, FARIDABAD & ANR.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Thakan, Advocate for
Mr. Surinder Dagar, Advocate
for the petitioner.

Mr. Ajay Kumar Yadav, Advocate
for Mr. R.N Lohan, Advocate
for the respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the award passed by the Labour Court dated 05.09.2012, copy of which has been appended as Annexure P-3 by which, the claim of the petitioner-Workman that his services has been terminated in an illegal and arbitrary manner and in violation of the provisions of the Industrial Disputes Act, 1947 (for short "1947 Act"), has been disbelieved by the Labour Court and the claim of the petitioner i.e. of reinstatement with continuity in service alongwith full backwages has been rejected.

2. Learned counsel for the petitioner argues that though, while in service as Mechanist, a chargesheet dated 03.02.1999 (Annexure P-1) was served upon the petitioner-Workman but, he was not given the due opportunity of hearing to defend the said allegation, which fact has been ignored by the Labour Court while recording the findings against the

petitioner-Workman in the award dated 05.09.2012 (Annexure P-3) that the services of the petitioner has been terminated on 31.03.1999 in accordance with law.

3. Learned counsel for the petitioner submits the even otherwise, the allegations which were being alleged against the petitioner-Workman were not good enough to dismiss the petitioner from the service hence, even the punishment of dismissal imposed upon the petitioner-Workman was disproportionate to the charges alleged and proved in the departmental enquiry, which fact has been ignored by the Labour Court while rejecting the claim of reinstatement with continuity in service along with full backwages, the petitioner-Workman or the same is perverse to the facts or the material evidence brought on record hence, the same may kindly may kindly be set aside.

4. Learned Counsel appearing on behalf of the respondents submits that due opportunity to defend was given and despite due opportunities, the petitioner-Workman never associated with the disciplinary proceedings conducted by the department and rather, even the publication was made in the newspaper on 11.03.1999 after which also, the petitioner-Workman never associated himself with the said proceedings hence, the Enquiry Officer proved the allegations on the basis of the material evidence which were brought on record.

5. Learned counsel for the respondents further submits that the allegations which were alleged were of serious nature, as the petitioner-Workman was not performing the duties and had taken a Gate meeting from 9:50 A.M. to 10:00 A.M. on 07.01.1999 and instigated the other workmen not to perform their duties so as to cause loss to the respondent No.2-

Company hence, by appreciating everything in correct perspective, claim regarding reinstatement with continuity in service along with full backwages of the petitioner was rejected hence, the award passed by the Labour Court dated 05.09.2012 (Annexure P-3) may kindly be upheld.

5. I have heard the learned counsel for the parties and have gone through the records of the present case with their able assistance.

6. Learned counsel for the petitioner has argued that no opportunity of hearing was given to the petitioner-Workman to defend the enquiry proceedings. As per the averments made in Paragraph No.10 of the award dated 05.09.2012 (Annexure P-3), the petitioner was given the chance to appear on 27.02.1999, 04.03.1999, 09.03.1999 and 16.03.1999 but he remained absent and did not participate in the enquiry proceedings on 11.03.1999, even a newspaper report was published in the "Local Keshri" with regard to the conduct of the enquiry against the petitioner-Workman, which was also ignored by the petitioner-Workman and thereafter, as the petitioner did not participate in the enquiry proceedings, an enquiry report was given on the material evidence which were brought on record hence, under these circumstances it cannot be said that the petitioner-Workman was not given due opportunity of hearing to defend himself. Rather, the petitioner-Workman did not availed the opportunities which were given to him by the Management of the Company to defend himself against the allegations alleged hence, he cannot raise a grievance that the enquiry was proceeded *ex parte* without there being participation of the petitioner.

7. The aforementioned fact has been duly appreciated by the Labour Court and the correct perspective was taken to hold that there was

nothing wrong in conducting the disciplinary proceedings by the respondent-Sugar Mill, which findings needs no interference at the hands of this Court.

8. Learned counsel for the petitioner further submits that the charges alleged against the petitioner-Workman were minor and not serious enough to demand the punishment of dismissal. Holding the co-workmen at the Gate on 07.01.1999 and not allowing them to enter the premises of the Mill and thereafter instigating the workers not to perform their duties and creating ruckus in the factory premises, are serious enough to disrupt the working of the respondent No.2-Sugar Mill.

9. It may be noticed that the jurisdiction of the Court qua the quantum of the punishment is limited. As per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.219 titled "Union of India and ors. Vs. Const. Sunil Kumar***, decided on 19.01.2023, it is only in case the punishment imposed is shockingly disproportionate to the charges alleged and proved against the delinquent employee, the Court should interfere with the decision of the authorities. Relevant Paras of the judgment are as under:

"6.2. Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is disproportionate to the gravity of the wrong. In the case of Surinder Kumar (supra) while considering the power of 11 judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in the case of Union of India Vs. R.K. Sharma; (2001) 9 SCC 592 that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the

punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under Article 226 or 227 or under Article 32 of the Constitution.

6.3 Applying the law laid down by this Court in the aforesaid decision(s) to the facts of the case on hand, it cannot be said that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under Article 226 of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a 12 disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of dismissal imposed and ordering reinstatement of the respondent.”

10. Keeping in view the totality of the circumstances, as the learned counsel for the petitioner-Workman has not been able to prove that the findings recorded by the Labour Court dated 05.09.2012 (Annexure P-3) are perverse to the material evidence which were brought on record, facts or the settled principle of law, no ground is made out for any interference by this Court in the facts and the circumstances of the present case.

11. Present petition stands dismissed.

12. Pending application, if any, also stands disposed of.

28-07-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO